

COPY OF TRANSCRIPT

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DEBORA NOVAKOWSKI, CIVIL ACTION

Plaintiff,

vs.

ELAINE CHAO, SECRETARY,
and the UNITED STATES
DEPARTMENT OF LABOR,

Defendant. NO. 04-356 ERIE

Oral deposition of RICHARD
D. SOLTAN, ESQUIRE, taken at the law
offices of U.S. ATTORNEY'S OFFICE,
614 Chestnut Street, Suite 1250,
Philadelphia, Pennsylvania, on
Thursday, February 9, 2006,
commencing at 9:47 a.m., before
Rosemary Locklear, Registered
Professional Reporter, Certified
Shorthand Reporter (NJ), Certified
Realtime Reporter and Notary Public,
pursuant to notice.



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EXHIBIT B

ORAL DEPOSITION OF RICHARD D. SOLTAN, ESQUIRE, 2/9/06

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3 ASSOCIATES

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EXAMINATION INDEX

16 RICHARD D. SOLTAN, ESQUIRE
17 BY MR. LINKOSKY

4



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1 Eligibles goes to the area office, I
2 assume; right? You have to answer
3 yes or no.

4 A. I'm sorry. Yes.
5 Absolutely.

6 Q. And who was responsible at
7 the area office level for making the
8 selection?

9 A. Selection was made by the
10 area director.

11 Q. And in this case it's Mr.
12 Stranahan.

13 A. John Stranahan.

14 Q. At the area office level
15 who's responsible for enforcing the
16 sexual harassment policy?

17 A. John Stranahan.

18 Q. Okay.

19 A. And the subordinates,
20 subordinate managers, if they get
21 information about an issue that
22 relates to sexual harassment.

23 Q. Who bears the ultimate
24 responsibility?



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1 A. In the area office? The
2 area director does.

3 Q. And what about your role in
4 enforcing the sexual harassment
5 policy?

6 A. Those allegations are
7 brought up through the chain of
8 command to me or to my deputy or to
9 the assistant regional administrator
10 for management, whoever is there,
11 whoever is available.

12 Q. There or available where?

13 A. In the regional office --

14 Q. In the regional office.

15 A. -- at the time an
16 allegation is made.

17 Q. Does every incident of
18 sexual harassment or sexually hostile
19 atmosphere come to the regional
20 office?

21 A. It is supposed to.

22 Q. Okay. Do you monitor that
23 program in any way to see that you
24 are getting all that information?



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1 A. I don't understand the
2 question.

3 Q. Okay. There's a sexual
4 harassment policy.

5 A. Uh-huh.

6 Q. And there are
7 responsibilities at the area office
8 level for administering that policy.

9 Do you have -- do you
10 monitor the area offices to make sure
11 that you are being made aware of
12 sexual harassment that might occur,
13 sexually hostile atmosphere that
14 might --

15 A. I don't go to employee to
16 employee asking if anything has
17 happened that's not been reported to
18 me. We do have annual training
19 wherein we remind everyone of the
20 policy and the need to comply with
21 it.

22 Q. Okay. And when you say you
23 remind everyone, who specifically
24 would that be?



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1 A. We remind all of the
2 managers, and the managers have an
3 obligation also to put out
4 information to the employees.

5 Q. Do you monitor the managers
6 to make sure that information has
7 gone out?

8 A. We require each of them to
9 certify that it has gone out.

10 Q. They certify.

11 A. Yeah.

12 Q. Okay. Do you follow up on
13 the certification?

14 A. Well, certainly if we don't
15 get one, we do.

16 Q. Okay. But if you get one,
17 do you certify that -- do you follow
18 up to see that that certification is
19 in fact true?

20 A. No. As I said a moment
21 ago, I don't go to each employee
22 asking whether or not.

23 Q. How about each area
24 director? There's ten of those.



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1 A. Yeah, we go to each area
2 director asking them to certify that
3 the information has been given out.

4 Q. So do I understand
5 correctly if there is a sexually
6 hostile atmosphere that the area
7 director does not, has not or does
8 not deal with, that that area
9 director has certified to you
10 annually --

11 A. No. No. He certifies to
12 me the training has been done.

13 MR. SKIRTICH: Well,
14 objection.

15 Hang on a second.

16 First of all, we have a
17 compound question so we have to break
18 those down and answer them one by one
19 so we can make sure this record is
20 clear. So why don't we do that
21 first.

22 You asked more than one
23 question.

24 MR. LINKOSKY: Would you



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1 read it back? I didn't think I did.
2 You know, I'm old and my memory is
3 short.

4 MR. SKIRTICH: That's all
5 right.

6 (The court reporter read
7 back the following:

8 "QUESTION: Do I understand
9 correctly if there is a sexually
10 hostile atmosphere that the area
11 director does not deal with, that
12 that area director has certified to
13 you annually --")

14 MR. LINKOSKY: I don't
15 believe that's a compound question,
16 Paul. This is a simple question.

17 MR. SKIRTICH: All right.

18 MR. LINKOSKY: Okay.

19 BY MR. LINKOSKY:

20 Q. And your answer?

21 A. Boy, I think it's a
22 compound question. But I do not --
23 let me repeat what I've said. I
24 don't go from employee to employee



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1 asking them whether or not they have
2 any instances of harassment or
3 whether or not they have received the
4 annual notices relating to the policy
5 of the Department. I do demand of
6 each of the area directors that they
7 circulate those notices and that they
8 certify to me that they have in fact
9 done that.

10 Q. Do I understand correctly
11 you have received certifications from
12 Mr. Stranahan that he has done that?

13 A. Over the years, yes.

14 MR. LINKOSKY: I think that
15 those certifications would have been
16 part of the discovery that I should
17 have had.

18 THE WITNESS: Well, those
19 certifications aren't necessarily
20 written --

21 MR. SKIRTICH: Hold on.
22 Hold on. Hold on a second, please.

23 MR. LINKOSKY: Didn't I ask
24 for all of the documents relevant to



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1 the --

2 MR. SKIRTICH: Well, we can
3 deal with that after. You'll have to
4 point out --

5 MR. LINKOSKY: I just want
6 to put on the record that there
7 apparently are documents that I
8 didn't -- I didn't get in this
9 regard.

10 MR. SKIRTICH: Well, first
11 of all --

12 MR. LINKOSKY: That's fine.

13 MR. SKIRTICH: Hang on a
14 second. Hang on a second. Now it's
15 my turn.

16 First of all, that is not
17 my understanding.

18 MR. LINKOSKY: Okay. Fine.

19 MR. SKIRTICH: And if there
20 is a request for documents and we
21 have them, you'll get them. But this
22 is the first time that I have heard
23 of it, to my memory. Okay?

24 THE WITNESS: And let me



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1 also say that the certifications are
2 not necessarily written. They're
3 certifying to me that they've done
4 it.

5 BY MR. LINKOSKY:

6 Q. So they're verbal
7 certifications?

8 A. Uh-huh. Can be.

9 MR. SKIRTICH: Is that yes?

10 THE WITNESS: That's a yes.
11 I'm sorry.

12 BY MR. LINKOSKY:

13 Q. Do you have a system, a
14 program where you go to your area
15 directors on an annual basis and say,
16 did you do this, did you -- are you
17 certifying that you have done all
18 these things?

19 A. No. My recollection is
20 that we send out documents over the
21 course of the year which talk about
22 policies concerning the handicapped,
23 policies concerning sexual
24 harassment, policies concerning equal



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1 opportunity and we say to them, you
2 need to give these to your employees,
3 you need to distribute these to the
4 employees. And maybe now it might
5 even be done electronically. It may
6 even be done by E-mail. I -- I don't
7 recall. But I ask them to ensure
8 that they have done this.

9 Q. Correct. And that's the
10 certification you referred to.

11 A. Yeah.

12 Q. Their response.

13 A. Their response to me, yeah.

14 Q. Okay. Now, my question
15 was, do you do that on some
16 systematic basis annually?

17 MR. SKIRTICH: Well,
18 objection. I think he did answer.

19 If it's verbal, it could be
20 systematic.

21 MR. LINKOSKY: Well, what
22 I --

23 MR. SKIRTICH: You're
24 asking for writing or documents?



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1 MR. LINKOSKY: No.

2 BY MR. LINKOSKY:

3 Q. What I'm asking for is, do
4 you have a program where you say
5 every, for example --

6 A. No.

7 Q. -- every July, I check to
8 see that this happens?

9 A. No.

10 Q. Or how is it done is what I
11 need to --

12 A. But let me -- let me give
13 you an example of how it's being done
14 this year.

15 We are bringing all of the
16 area directors and all of the
17 assistant area directors into a
18 meeting in Washington, D.C., which is
19 our planning conference, and during
20 that period of time we are going to
21 give them training on all of these
22 issues and make sure they have copies
23 of them again.

24 Now, this is the first time



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1 that I remember having formal
2 training all at once for all of these
3 people about all of these documents.
4 But they come out from the national
5 office at different times. So we
6 give them out and ask them to tell us
7 that in fact they have given them to
8 their employees.

9 Q. So I think it's the word
10 "certification" that I'm hung up on
11 because certification -- and see if
12 you disagree with me -- certification
13 to me implies that someone makes an
14 affirmative statement, I have done
15 these things and --

16 A. I can't disagree with you.
17 I'm sure --

18 Q. Okay. Does that happen is
19 what I'm trying to get at? I mean,
20 we're dancing around this.

21 A. I asked them, have you --

22 MR. SKIRTICH: Objection to
23 the use of your word "dancing."

24 MR. LINKOSKY: That's --



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1 MR. SKIRTICH: Go ahead.
2 You can answer.

3 MR. LINKOSKY: I'm
4 referring to myself, for the record.

5 MR. SKIRTICH: All right.
6 All right.

7 THE WITNESS: I don't dance
8 anyway. Ask my wife.

9 I make sure and check with
10 them to make sure that in fact they
11 have handed it out to their
12 employees.

13 BY MR. LINKOSKY:

14 Q. How often?

15 A. When it happens.

16 Q. Okay. So let me see if I
17 understand. A publication,
18 information goes out to the area
19 office, goes to the area director.
20 You follow up verbally to ask that
21 each area director, each of the ten,
22 including Mr. Stranahan, did you get
23 this, did you do what you're supposed
24 to do?



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1 A. And that follow-up may be
2 in a personal phone call or it may be
3 on a conference call saying, please
4 make sure that the stuff has gone
5 out.

6 Q. And it happens every time
7 it goes out; is that correct?

8 A. It happens every time it
9 goes out. And again, these things go
10 out at different times during the
11 course of a year.

12 Q. Okay. And has that been
13 the process that you have followed
14 since January of 2000?

15 A. I believe it is.

16 Q. Okay. Now, when there is a
17 sexual harassment or sexually hostile
18 atmosphere complaint in the area
19 office or -- well, let's talk about a
20 complaint.

21 What's the responsibility
22 of the area director when he or she
23 gets a complaint of sexual harassment
24 or sexually hostile atmosphere?



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1 A. Again, it depends on the
2 time frame. The very stringent
3 policy that is in effect now started
4 sometime during the administration of
5 Secretary Chao. And I can't tell you
6 the year that was, 2002, 2003. But
7 it's a very stringent policy, and
8 that is that if someone knows of
9 something, a manager knows of
10 something, they're to report it up
11 the line and that, in turn, is to be
12 referred to people in Washington who
13 evaluate or it might be referred back
14 to us, but initially referred to
15 Washington to evaluate that claim.

16 Q. Now, you said the years
17 2002, 2003.

18 What was the policy prior
19 to that, from January of 2000?

20 A. The years -- the policy
21 prior to that was that sexual
22 harassment wasn't to be tolerated and
23 reports of sexual harassment made to
24 a manager were to be reported up the



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1 line.

2 Q. To whom?

3 A. Well, it probably would
4 have been to Brenda McLahan.

5 Q. To the regional office.

6 A. To the regional office,
7 yes.

8 Q. And to Miss McLahan and
9 ultimately?

10 A. Ultimately to me. Yeah.

11 Q. Okay.

12 A. Or whoever was in there --
13 who was the regional administrator at
14 the time. Yeah.

15 Q. Okay. But the time period
16 we're talking about, 2000 to 2002 --

17 A. It would have been me.

18 Q. -- it would have been you.
19 Okay.

20 Now, did the area director
21 have any responsibility in regard to
22 sexual harassment, sexually hostile
23 atmosphere to survey, observe, to see
24 whether any of those circumstances



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1 are occurring in his or her office?

2 A. I'm not sure what you mean
3 by survey or observe. Certainly, if
4 somebody observes something, they
5 have an obligation to bring it
6 forward.

7 Q. Okay.

8 A. They're not meant to go out
9 and investigate claims, potential
10 claims, there is no potential claim
11 brought to his or her attention. So
12 they're not to go through the office
13 at night looking under desks and --

14 Q. Well, that's what I'm
15 getting at, Mr. Soltan.

16 When it's brought to their
17 attention, obviously, it's brought to
18 the attention of the area director --

19 A. Uh-huh.

20 Q. -- when there's a
21 complaint.

22 What I'm talking about is
23 when the area director observes,
24 learns of other than through a



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1 complaint sexual harassment or of a
2 sexually hostile atmosphere, what is
3 the obligation of the area director
4 in those circumstances?

5 A. I imagine the area director
6 would probably counsel the person
7 involved immediately and under the
8 current policy would have to report
9 it up the line.

10 Q. Okay. Well, under the
11 prior policy, prior to 2002?

12 A. I don't fully remember. I
13 think they probably had a
14 responsibility to deal with it
15 locally but, clearly, if this was
16 something that was ongoing, to report
17 it up the line.

18 Q. Well, when you say ongoing,
19 do you mean it had to be repeated in
20 order for it to be reported?

21 A. I imagine the area director
22 would probably try to counsel the
23 person initially to make it stop.

24 Q. And as far as you were



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1 concerned, in those circumstances,
2 would you have any knowledge of it at
3 all?

4 A. I might not.

5 Q. Was an investigation into
6 the -- into the situation required to
7 be done by the area director?

8 A. If he got a complaint.

9 Q. What about if he observes?
10 What if he learns of it, other than a
11 complaint?

12 A. If he learns of it other
13 than a complaint, certainly, with the
14 current policy he's required to
15 forward that up through the channels
16 to me.

17 Q. So prior to the current
18 policy, prior to 2002, he wasn't
19 required to investigate such things?

20 A. No. I'm sure he was
21 required to investigate such things
22 but I don't recall how that policy
23 was administered prior to the very
24 clear change that happened during the



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1 middle of Secretary Chao's first
2 term.

3 Q. Do you agree with me that
4 from your testimony, it appears that
5 sexual harassment, sexually hostile
6 atmosphere could exist in any one of
7 your area offices, Erie included,
8 from 2000 to 2002 and you would have
9 absolutely no knowledge of it?

10 MR. SKIRTICH: I object.

11 It calls for speculation
12 because it's something --

13 MR. LINKOSKY: You can
14 answer.

15 MR. SKIRTICH: -- that's
16 not in existence. Go ahead. Fact
17 not in existence.

18 But go ahead. You can
19 answer it.

20 THE WITNESS: No, I don't
21 agree with it. I think that -- that
22 issues of sexual harassment would be
23 raised to my attention. I think that
24 each of the area directors would have



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1 been sensitive to raise these to my
2 level if they knew about them through
3 a complaint or through personal
4 experience.

5 BY MR. LINKOSKY:

6 Q. Can you be sure?

7 A. Well, once again, it's -- I
8 manage 190 people across the region
9 and it's difficult to be sure about
10 most things.

11 Q. I'm talking about your 10
12 area directors, not the other 180
13 people. I'm talking about their
14 responsibility.

15 Do I understand correctly
16 that there could have been from 2000
17 to 2002, since there was no stringent
18 reporting, as you've testified, that
19 there could have been a sexually
20 hostile atmosphere, sexual harassment
21 occurred in an area office and you
22 would have been totally unaware of
23 it?

24 MR. SKIRTICH: I object to



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1 the question again because counsel is
2 now characterizing the witness's
3 testimony as to what is stringent and
4 not stringent and we didn't get into
5 that definition.

6 But go ahead. You can
7 answer.

8 MR. LINKOSKY: You can
9 answer the question.

10 THE WITNESS: Is it
11 possible that something happened?

12 MR. LINKOSKY: Sure.

13 THE WITNESS: I'm sure that
14 anything is possible.

15 BY MR. LINKOSKY:

16 Q. Yes or no. Could it --
17 could it happen or not?

18 MR. SKIRTICH: Objection.

19 THE WITNESS: It's --

20 MR. SKIRTICH: I think he
21 answered. He said it's possible it
22 could happen, Counsel.

23 MR. LINKOSKY: I thought
24 the answer was not -- was not



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1 definitive.

2 MR. SKIRTICH: Said it
3 could happen.

4 MR. LINKOSKY: It could
5 happen.

6 MR. SKIRTICH: It's
7 possible. It's possible.

8 BY MR. LINKOSKY:

9 Q. As part of the
10 investigation -- was there an
11 investigation procedure that was
12 conveyed to the area directors when
13 they became aware of sexual
14 harassment, sexually hostile
15 atmosphere?

16 MR. SKIRTICH: Now, I think
17 it's important when, time frame.

18 MR. LINKOSKY: 2000 to
19 2002.

20 MR. SKIRTICH: All right.

21 THE WITNESS: I'm sorry.
22 Could I have the question again?

23 BY MR. LINKOSKY:

24 Q. During the years 2000 to



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1 2002, before the current policy went
2 into effect, was there an
3 investigation procedure that area
4 directors were to follow when they
5 became aware of a sexual harassment
6 or a sexually hostile atmosphere in
7 their office?

8 A. It is my recollection that
9 they were to report those to -- up
10 the chain of command and the chain of
11 command would then do the appropriate
12 investigation.

13 Q. Okay.

14 A. That's my recollection.
15 But again, this is the
16 responsibility -- day-to-day
17 activities like that were done by the
18 assistant regional administrator for
19 administration to management.

20 Q. Were you aware of a --
21 strike that.

22 Was there a -- an
23 investigation process to be followed
24 by whomever did it?



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ORAL DEPOSITION OF RICHARD D. SOLTAN, ESQUIRE, 2/9/06

1 MR. SKIRTICH: Well,
2 objection.

3 I think he did answer that.
4 He said that the region would then do
5 an investigation.

6 MR. LINKOSKY: Right. I
7 want to know what the process was.

8 MR. SKIRTICH: Okay.

9 MR. LINKOSKY: I'm not
10 going to --

11 MR. SKIRTICH: I thought
12 you asked, is there?

13 MR. LINKOSKY: What I'm
14 anticipating is your objection if I
15 jumped ahead without that question is
16 what's happened here.

17 MR. SKIRTICH: If there's a
18 process, I think that's what counsel
19 wants.

20 THE WITNESS: I'm not aware
21 of a manual or a written process or
22 procedure that had to be followed.
23 I'm aware that the complaint has to
24 be investigated.



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1 MR. LINKOSKY: Okay.

2 BY MR. LINKOSKY:

3 Q. Are you aware of a
4 question -- of a requirement -- of a
5 requirement that the complainant be
6 questioned in detail about the
7 allegations if there's a complaint?

8 A. I, again, I'm not aware of
9 a requirement or a process.

10 Q. Who has the authority to
11 take corrective action when there is
12 a -- an area director becomes aware
13 of a sexual harassment -- of sexual
14 harassment or a sexually hostile
15 atmosphere?

16 A. Well, the area director
17 does.

18 Q. Okay.

19 A. He can.

20 Q. Do those corrective actions
21 have to be cleared through the
22 regional office first?

23 A. I do not know when it comes
24 to the time frame you're dealing



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1 with. I do know that at this point,
2 in light of the stringency of the
3 policy, it has to be reported
4 directly up the -- up the chain of
5 command, that the regional office
6 would know what's happening because
7 it would be -- it would be processed
8 through the regional office up to the
9 national office.

10 Q. From year 2000 to 2002.

11 A. That I can't recall. I
12 don't remember. I just don't
13 remember.

14 Q. Are there any limitations
15 on what an area director can do to
16 correct a situation of sexual
17 harassment or sexually hostile
18 atmosphere?

19 A. Well, that's a pretty broad
20 question. We -- you know, sure,
21 there are limitations. The contract
22 limits what he can do or she can do.
23 There are -- the grievance -- the
24 disciplinary process in the



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1 Department of Labor is pretty
2 circumscribed at what can be done and
3 that process and it's governed by the
4 contract, unless it's a criminal
5 activity, then it's referred out for
6 prosecution.

7 Q. Okay. Okay. Now, there
8 has been an investigation by the
9 Office of Inspector General of the
10 Department of Labor into events in
11 the Erie area office that might
12 involve or involve a sexually hostile
13 atmosphere and sexual harassment;
14 correct?

15 MR. SKIRTICH: Objection to
16 the term, the characterization of
17 what is sexual harassment. You're
18 using terms that are not defined and
19 they are legal terms.

20 MR. LINKOSKY: Okay. Okay.
21 BY MR. LINKOSKY:

22 Q. Has there been an
23 investigation by the Office of the
24 Inspector General within the last two



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